

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MONICA WYNNE MCCORD,)
Plaintiff,)
v.) CIVIL CASE NO. 2:23-cv-700-ECM
DR. ERIC MACKEY, *et al.*,)
Defendants.)

MEMORANDUM OPINION and ORDER

For good cause, the Court VACATES its August 30, 2024 Memorandum Opinion and Order (doc. 33) and substitutes the following in its place.

On August 12, 2024, the Magistrate Judge entered a Recommendation (doc. 32) that Defendant Dr. Eric Mackey’s (“Mackey”) motion to dismiss (doc. 20) be granted, and that the motion to dismiss and motion for more definite statement filed by Defendant Montgomery County Board of Education (“MCBOE”) and the Defendant Board officials (doc. 17) be granted to the extent that Defendants Dr. Melvin Brown, Dr. Ann Roy Moore, Kim Pitts-Gills, Dr. John Johnson, Jamarious Harris, and Dollie Jones be dismissed from this action. The Recommendation concluded that these Defendants should be dismissed because Mackey was not a proper defendant for the Plaintiff’s employment law claims, and because the Plaintiff’s claims against the Board officials in their official capacities were duplicative of the claims against MCBOE. The Plaintiff has timely filed objections to the Recommendation. (Doc. 36). Upon an independent review of the file, the Court

concludes that the Plaintiff's objections are due to be overruled and the Magistrate Judge's Recommendation is due to be adopted.

When a party objects to a Magistrate Judge's Report and Recommendation, the district court must review the disputed portions *de novo*. 28 U.S.C. § 636(b)(1); *see also* *United States v. Raddatz*, 447 U.S. 667, 674 (1980). The district court "may accept, reject, or modify the recommended disposition; receive further evidence; or resubmit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1). *De novo* review requires that the district court independently consider factual issues based on the record. *Jeffrey S. by Ernest S. v. State Bd. of Educ. of State of Ga.*, 896 F.2d 507, 513 (11th Cir. 1990). However, objections to the Magistrate Judge's Report and Recommendation must be sufficiently specific in order to warrant *de novo* review. *See LoConte v. Dugger*, 847 F.2d 745, 750 (11th Cir. 1988) ("Whenever any party files a timely and specific objection to a finding of fact by a magistrate [judge], the district court has an obligation to conduct a *de novo* review of the record with respect to that factual issue."). Otherwise, a Report and Recommendation is reviewed for clear error.

The Court has carefully reviewed the record in this case, the Recommendation of the Magistrate Judge, and the Plaintiff's objections. To the extent the Plaintiff makes conclusory objections or merely restates the allegations in her complaint, these objections are reviewed for clear error and are due to be overruled.

In her objections, the Plaintiff argues that the motions to dismiss filed by Mackey and the Board officials should be denied. She asserts that the Recommendation overlooked "crucial evidence" and facts alleged in her complaint; according to the Plaintiff, her

complaint details discriminatory and retaliatory actions committed by Mackey and the Board officials. The Plaintiff also argues that the Recommendation contains inadequate analysis concerning the merits of her claims. Assuming without deciding that *de novo* review applies to all of the Plaintiff's objections, the Plaintiff has not shown error in the Magistrate Judge's conclusion that Mackey was not a proper defendant or that the Plaintiff's claims against the Board officials were duplicative. The Plaintiff has shown no error committed by the Magistrate Judge, and her objections are due to be overruled.

Accordingly, upon consideration of the Recommendation, the Plaintiff's objections, and the entire record, and for good cause, it is

ORDERED as follows:

1. The Plaintiff's objections (doc. 36) are OVERRULED;
2. The Recommendation of the Magistrate Judge (doc. 32) is ADOPTED;
3. Defendant Dr. Eric Mackey's motion to dismiss (doc. 20) is GRANTED, and

he is DISMISSED from this action with prejudice;

4. The motion to dismiss and motion for more definite statement filed by Defendant Montgomery County Board of Education and the Board officials (doc. 17) is GRANTED to the extent that Defendants Dr. Melvin Brown, Dr. Ann Roy Moore, Kim Pitts-Gills, Dr. John Johnson, Jamarious Harris, and Dollie Jones are DISMISSED from this action with prejudice. Defendant Montgomery County Board of Education's motion for more definite statement (doc. 17) is HELD IN ABEYANCE;

5. This case is REFERRED back to the Magistrate Judge for consideration of the motion for more definite statement (doc. 17) and other proceedings not inconsistent with this Opinion.

DONE this 16th day of September, 2024.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE